

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LAWRENCE FUDGE,
Petitioner

v.

SCOTT J. FINLEY, et al.,
Respondents

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No. 1:21-cv-00386

(Judge Kane)

(Magistrate Judge Carlson)

ORDER

Before the Court in the above-captioned action is the April 28, 2021 Report and Recommendation of Magistrate Judge Carlson (Doc. No. 12), recommending that the Court deny Petitioner Lawrence Fudge (“Petitioner”)’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.¹ No objections to the Report and Recommendation have been filed.

ACCORDINGLY, on this 18th day of May 2021, upon independent review of the record and the applicable law, **IT IS ORDERED THAT:**

1. The Court **ADOPTS** the Report and Recommendation (Doc. No. 12) of Magistrate Judge Carlson;
2. The petition for a writ of habeas corpus (Doc. No. 1) is **DENIED**;
3. A certificate of appealability **SHALL NOT ISSUE**; and

¹ The petition challenges the conditions of confinement at the Federal Correctional Institution at Schuylkill (“FCI-Schuylkill”) related to the COVID-19 pandemic. Magistrate Judge Carlson recommends that this Court deny the petition because: (1) Petitioner has failed to exhaust administrative remedies; (2) Petitioner’s request for home confinement is within the sole discretion of the Bureau of Prisons; and (3) any Eighth Amendment claim raised by the petition fails where Petitioner has fully recovered from a COVID-19 infection and has specifically declined to be vaccinated as a precaution against further COVID-19 infection. (Doc. No. 12 at 11-21.) In addition, Magistrate Judge Carlson recommends that the Court deny Petitioner’s request for certification of a class action on behalf of his fellow prisoners. (Id. at 2-3.)

4. The Clerk of Court is directed to **CLOSE** this case.

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s/ Yvette Kane

Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania